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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,958	12/14/2006	Takeshi Saito	297517US2RD PCT	7388
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER VAUGHAN, MICHAEL R				
ART UNIT		PAPER NUMBER		
2431				
NOTIFICATION DATE		DELIVERY MODE		
11/04/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/599,958

**Applicant(s)**

SAITO ET AL.

**Examiner**

MICHAEL R. VAUGHAN

**Art Unit**

2431

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 1, 10 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 2-15-07
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The instant application having Application No. 10/599,958 filed on 12/14/06 is presented for examination by the examiner.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been received.

#### ***Claim Objections***

Claims 1, 10, and 19 are objected to because of the following informalities:  
There is insufficient antecedent basis for the term "the transmitted packet".

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:  
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19 and 20 are rejected under 35 U.S.C. 101 as directed to non-statutory subject matter of software, per se. The claim lacks the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C. 101. The claim lacks the required language necessary for claims directed to computer programs. The program needs to be stored on computer readable medium and executed by a processor.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, 10, and 19, the use of the phrase “and/or” renders the claim indefinite. The phrase makes it impossible to determine the metes and bounds of the claims given its dual meaning. Examiner interprets the claim the alternative. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 10-13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by USP Application Publication 2005/0027984 to Saito et al., hereinafter Saito.

As per claim 1, Saito teaches a transmitter, comprising: a network interface unit connected to a wireless network capable of transmitting contents for which copyright protection is necessary (101);

an encryption processing unit configured to encrypt contents for which copyright protection is necessary (101);

an RTT measuring unit configured to measure a round trip time after a predetermined packet is transmitted to a receiver, until a response corresponding to the transmitted packet is received (129);

a communication permission determination unit configured to permit transmission of the contents for which protection is necessary when the round trip time measured by the RTT measuring unit is within a predetermined time (129); and

a parameter modification unit [power supply control unit] configured to change of the wireless network before and/or after the RTT measuring unit performs the measurement of the round trip time (101).

As per claim 10, Saito teaches a receiver, comprising: a network interface unit connected to a wireless network capable of transmitting contents for which copyright protection is necessary (109);

an encryption processing unit configured to encrypt contents for which copyright protection is necessary (109);

an RTT measuring unit configured to measure a round trip time after a predetermined packet is transmitted to a receiver, until a response corresponding to the transmitted packet is received (129);

a communication permission determination unit configured to permit transmission of the contents for which protection is necessary when the round trip time measured by the RTT measuring unit is within a predetermined time (129); and

a parameter modification unit [power supply control unit] configured to change of the wireless network before and/or after the RTT measuring unit performs the measurement of the round trip time (109).

As per claims 2 and 11, Saito teaches authentication & key exchange unit to authentication & key exchange processing with the receiver (101);

wherein the parameter modification unit the parameters to measure the round trip time when the authentication & key exchange unit performs the authentication & key exchange processing, and puts back the parameters after the measurement of the round trip time is completed, before the authentication & key exchange unit completes the authentication & key exchange processing (101 and 075).

As per claims 3 and 12, Saito teaches authentication & key unit to authentication & key exchange processing with the receiver (101);

wherein the modification unit changes the parameters to measure the round trip time when the authentication & key exchange unit performs the authentication & key

exchange processing, and puts back the parameters after the authentication & key exchange unit completes the authentication & key exchange processing (101 and 075).

As per claims 4 and 13, Saito teaches authentication & key exchange unit configured to perform authentication & key exchange processing with the receiver (101); wherein the parameter modification unit changes the parameters to measure the round trip time before transmission of commands relating to contents for which copyright protection is necessary is begun, and puts back the parameters after transmission processing of contents for which copyright protection is necessary is completed (101 and 075).

As per claim 19, Saito teaches a communication control program comprising (101): measuring a round trip time after a predetermined packet is transmitted to the other communication apparatus, until a response corresponding to the transmitted packet is received (129); permitting transmission or reception of contents for which copyright protection is necessary when the measured round trip time is within a predetermined time (129); transmitting or receiving the encrypted contents via a wireless network when transmission or reception of the contents is permitted (129); and changing parameters [power supply control unit] of the wireless network before and/or after the round trip time is measured (101).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5-9, 14-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito in view of USP Application Publication 2003/0197488 to Hulvey hereinafter Hulvey.

As per claims 5, 14, and 20, Saito is silent in disclosing the wireless network is Bluetooth; and the parameter modification unit changes at least one of a sniff interval expressing transmission and reception interval, a polling interval, transmission power and master-slave prescribed by a standard of Bluetooth as parameters. Saito teaches modifying the parameters during the RTT measurement (101). Saito teaches a short-ranged wireless communication but not specifically Bluetooth. Hulvey teaches a wireless network is Bluetooth; and the parameter modification unit changes at least one of a sniff interval expressing transmission and reception interval, a polling interval, transmission power and master-slave prescribed by a standard of Bluetooth as parameters (0052). Saito also teaches controlling the power of the devices in the wireless network (101). Hulvey also teaches this mechanism as means to converse power among other reasons. Controlling the parameters of a Bluetooth network was well known in the art at the time of the invention. Therefore the claim would have been obvious because controlling Bluetooth parameters was recognized as part of the



ordinary capabilities of one skilled in the art and because applying a known technique to a known system ready for improvement to yield predictable results is within those capabilities. Saito teaches a short-ranged wireless communication. Bluetooth is a type of short-ranged wireless communication. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute Bluetooth into the system of Saito. The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

As per claims 6 and 15, Saito is silent in disclosing the parameter modification unit sets the sniff interval shorter than a normal interval when the RTT measuring unit performs the measurement. Hulvey teaches the parameter modification unit sets the sniff interval shorter than a normal interval when the RTT measuring unit performs the measurement (0053). Examiner relies upon the rationale for combining Saito and Hulvey as cited above for combining the modification of parameters of a Bluetooth communication.

As per claims 7 and 16, Saito is silent in disclosing the parameter modification unit sets the polling interval shorter than a normal interval when the RTT measuring unit performs the measurement. Hulvey teaches the parameter modification unit sets the polling interval shorter than a normal interval (0052). Examiner relies upon the rationale for combining Saito and Hulvey as cited above for combining the modification of parameters of a Bluetooth communication.

As per claims 8 and 17, Saito is silent in disclosing the parameter modification unit sets a transmission power weaker than a normal power when the RTT measuring

unit performs the measurement. Hulvey teaches the parameter modification unit sets a transmission power weaker than a normal power (0054). Examiner relies upon the rationale for combining Saito and Hulvey as cited above for combining the modification of parameters of a Bluetooth communication.

As per claims 9 and 18, Saito teaches the parameter modification unit reverses roles of a master device and a slave device when the RTT measuring unit performs the measurement (101 and 0047).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed on the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./  
Examiner, Art Unit 2431  
/Syed Zia/  
Primary Examiner, Art Unit 2431